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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,734	10/20/2005	Takayoshi Tanizawa	HOK-0290	7774

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WASHINGTON, DC 20036

EXAMINER

THANH, QUANG D

ART UNIT	PAPER NUMBER
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3771

MAIL DATE	DELIVERY MODE
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11/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,734

Applicant(s)

TANIZAWA ET AL. CT

Examiner

Quang D. Thanh

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C., § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 is/are allowed.
- 6) ☐ Claim(s) 1, 2, 7, 10-12 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is responsive to the amendment filed on 8/31/07. As directed by the amendment: claims 1, 7-10 and 12 have been amended, claims 3 and 6 have been cancelled. Thus, claims 1,2,4,5 and 7-12 are presently pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 7, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cutler et al. (6,290,661).

4. Re claims 1-2, Cutler et al. discloses a method of controlling a massage program A or B (col. 4-5) having a plurality of massage stages (program steps) with different massage parameters in a massage machine for providing a massage according to said massage program, said method comprising the steps of storing a change in massage parameter performed in a desired massage stage during an execution of said massage program in a memory (col. 2, lines 61-65), and modifying the desired massage stage according to the change in massage parameter stored in said memory at the next execution of the massage program (columns 3-6) wherein said massage machine is a chair-type massage machine having a backrest portion (fig. 1), in which a massage head 26 for providing a massage action is incorporated (fig. 1), and said massage parameters comprises the kind of massage action (wave, pulse), range of

message action (zones), the number of message actions (numbers motors), message strength (intensity) and message speed (fig. 2). Cutler does not explicitly disclose that when a change in total time required for said message program occurs due to the change in message parameter in the desired message stage, the message parameter of another message stage corresponding to the message parameter changed in the desired message parameter is changed such that said message program is completed within a predetermined time period. However, Cutler teaches that the user can select a change of intensity message parameter in the desired message stage, a corresponding intensity in another message stage other than the desired message stage can also be changed such that said message program is completed within a predetermined time period (col. 4-5) and a time interval can be set between 15 and 30 minutes and that various mode of massaging action can be manually set by the user during use and thus a change in the message parameter such as different intensities with different modes of action can be varied at any time as desired and can be completed within the preset time interval. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to program the control unit to adjust the message parameter of another message stage corresponding to the message parameter changed in the desired message parameter so that said message program is completed within a predetermined time period, as suggested and taught by Cutler, for the purpose of providing various massaging programs suitable for individual needs.

5. Re claim 7, Cutler et al. teaches that the message parameter comprises a combination of range of message action and at least message speed, said message

program comprises a plurality of massage steps or stages having a same range of massage action, and the user can change a speed performed in one of the massage steps having the same range of massage action is stored in said memory (col. 4-5). Cutler also teaches that a sequence of various steps can be set up and programmed (program A or B) and thus appear to comprehend the claimed language "the massage stages having the same range of massage action are modified in one lump according to the change in massage parameter stored in said memory at the next execution of said massage program".

6. Re claims 10-12, Cutler et al. discloses a massage machine comprising: an input unit 12/30 ; a first memory and a second memory (col. 2, lines 61-65, col. 3, lines 4-6, and col. 7, lines 9-12); and a control unit 14 (fig. 1); wherein the massage machine is a chair-type 16 massage machine having a backrest portion 22, in which a massage head 26 for providing a massage action is incorporated (fig. 1); a controller 12/30 for a massage machine for providing a massage according to a massage program having a plurality of massage stages with different massage parameters, wherein the controller is detachable to the massage machine (col. 2, lines 48-50), and comprises an input unit 12 configured to input the change in massage parameter and a screen (LED or LCD, col. 6, line 65 to col. 7, lines 6) for displaying the massage parameter.

Allowable Subject Matter

7. Claim 9 is allowed.
8. Claims 4-5 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 8/31/07 have been considered but are moot in view of the new ground(s) of rejection.
10. In response to applicant's argument that "Cutler fails to teach or suggest that when a change in message parameter performed in one of the message stages having the same range of message action is stored in the memory, the message stages having the same range of message action are modified in one lump according to the change in message parameter stored in said memory at the next execution of said message program", the examiner respectfully disagrees. Applicant's attention is directed to Cutler's col. 4-5, which clearly teaches that a sequence of various steps can be set up and programmed (program A or B) and thus appear to comprehend the claimed language "the message stages having the same range of message action are modified in one lump according to the change in message parameter stored in said memory at the next execution of said message program".

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang D. Thanh/

Quang D. Thanh,
Primary Examiner - Art Unit 3771
(571) 272-4982